

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

LORENE WRIGHT	§	CIVIL ACTION
Plaintiff	§	
	§	
VS.	§	NO. 1:21-CV-30
	§	
WALMART STORES TEXAS, L.L.C.	§	
Defendant	§	JURY

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant, WALMART STORES TEXAS, LLC, in accordance with 28 U.S.C. §§ 1332, 1441, and 1446 *et seq.*, and files its Notice of Removal of the above-styled case from the 163rd Judicial District Court of Orange County, Texas, to the United States District Court for the Eastern District of Texas, Beaumont Division, based on diversity of citizenship of the parties.

Pursuant to the applicable federal statutes and the Local Rules for the Eastern District of Texas, Defendant attaches the following documents in support of this Notice of Removal:

1. Attachment A - State Court Petition;
2. Attachment B - Citation of Service and Notice of Service of Process on Walmart Stores Texas, LLC;
3. Attachment C - Defendant Walmart Stores Texas, LLC's State Court Answer;
4. Attachment D - Certified Copy of Civil Docket;
5. Attachment E - List of Parties and Counsel;
6. Attachment F - State Court Information Sheet; and,
7. Attachment G - Plaintiff's Response to Defendant's Request for Admissions.

The documents attached hereto as Attachment “A” through “C” comprise true and correct copies of all executed process and pleadings served upon Defendant and of all documents filed in the state court action. The documents attached hereto as Attachment “G” is a true and correct copy of Plaintiff’s Responses to Request for Admissions.

In filing this Notice of Removal, Defendant expressly reserves all other questions other than that of removal, for the purpose of further pleadings.

I.
STATE COURT ACTION

Plaintiff’s Original Petition, styled *Lorene Wright vs. Walmart Stores Texas, L.L.C.*, Cause No. B200932-C, was filed on November 20, 2020, in Orange County, Texas, and assigned to the 163rd Judicial District Court of Orange County, Texas, located at 801 W Division Ave, Orange, TX 77630.

II.
PLAINTIFF’S ALLEGATIONS

Plaintiff alleges she was a customer at the Walmart store located in Vidor, TX. *See* Exhibit “A” – Plaintiff’s Original Petition, at § 4 and 5. Plaintiff claims that she *suffered severe and disabling injuries and damages* when, she slipped and fell due to water in front of an ice machine. *Id.* Plaintiff alleges that Defendant’s conduct and that of its agents, servants and employees, negligently, willfully, and/or knowingly permitted the area in question to become dangerous and failed to warn Plaintiff of the dangerous condition. *Id.* Plaintiff alleges that Defendant owed a duty to the general public, including Plaintiff, to use ordinary care, including the duty to inspect, warn, and/or cure. *Id.* Plaintiff alleges that Defendant was guilty of various acts, wrongs and omissions each of which constituted negligence, and that such negligence was a proximate cause of the injuries and damages alleged by Plaintiff. *Id.* Plaintiff further alleges

that Defendant owed her a duty to exercise ordinary care to keep the premises in a reasonably safe condition, inspect the premises to discover latent defects, and to make safe any defects or give an adequate warning of any dangers. *Id.* Plaintiff further alleges that Defendant's negligence was a proximate result of Plaintiff's injuries. *Id.*

III. **PARTIES - DIVERSITY OF CITIZENSHIP**

Plaintiff, Lorene Wright, is a resident of Vidor, Orange County, Texas.

Defendant, Walmart Stores Texas, LLC, is a Delaware limited liability company, and is an indirectly, wholly-owned subsidiary of Wal-Mart, Inc. The sole member of Walmart Stores Texas, LLC, is Walmart Real Estate Business Trust. The sole unit holder of Walmart Real Estate Business Trust is Walmart Property Co. which is a wholly owned subsidiary of Walmart Stores East, LP. Walmart Stores East, LP, a Delaware limited partnership, of which WSE Management, LLC, is the general partner, and WSE Investment, LLC, is the limited partner. The sole member of WSE Management, LLC, and WSE Investment, LLC, is Walmart Stores East, LLC (fka Walmart Stores East, Inc.), whose parent company is Walmart, Inc. The principal place of business of Walmart Stores Texas, LLC, is Bentonville, Arkansas. Walmart, Inc., is a Delaware corporation with its principal place of business in Arkansas. Accordingly, there is complete diversity of citizenship between Plaintiff and the Defendant. 28 U.S.C. §§ 1332, 1441.

IV. **AMOUNT IN CONTROVERSY**

The state court action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 since it is a civil action wherein the matter in controversy

allegedly exceeds the minimum jurisdictional limits of this Court exclusive of interest and costs and is between citizens of different states.

Plaintiff's Petition did not allege a specific damage amount. However, in Plaintiff's Response to Defendant's Request for Admissions No. 1 dated January 4, 2021, Plaintiff denies she is suing for \$75,000 or less. *See* Exhibit G – Plaintiff's Response to Request for Admission No. 1. Accordingly, Defendant has established that Plaintiff's alleged amount in controversy is sufficient to confer federal jurisdiction in this Court. For the reasons stated above, this Court has original jurisdiction of this case pursuant to 28 U.S.C. §1332(a).

V.
REMOVAL IS TIMELY

Removal is timely. Defendant, Walmart Stores Texas, LLC, received Plaintiff's Responses to Defendant's Request for Admissions on January 4, 2021, *See* Exhibit G. Accordingly, the Responses were received less than 30 days from filing this Notice of Removal. *See* 28 U.S.C. § 1446(b).

VI.
VENUE

This is a statutorily proper venue under the provisions of 28 U.S.C. § 1441(a) because the district and division embrace the place where the removed action has been pending.

VII.
FILING WITH STATE COURT AND NOTICE TO PLAINTIFF

Upon filing of this Notice of Removal of the cause, Defendant gave written notice of the filing to the Plaintiff through Plaintiff's counsel as required by law. A copy of this Notice is also being filed with the 163rd Judicial District Court of Orange County, Texas, where this cause was

originally filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant to 28 U.S.C. § 1446(a).

VIII.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant, WALMART STORES TEXAS, LLC, prays that the United States District Court for the Eastern District of Texas, Beaumont Division, accept this Notice of Removal and assume jurisdiction of this matter and issue any orders and processes necessary to bring Plaintiff, LORENE WRIGHT, and Defendant, WALMART STORES TEXAS, L.L.C., before it, and to effectively prevent further proceedings of this case in the 163rd Judicial District Court of Orange County, Texas.

Respectfully submitted,

MEHAFFY WEBER, P.C.

/s/ Karen L. Spivey

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to opposing counsel of record on this 25th day of January, 2021, in accordance with the Federal Rules of Civil Procedure by certified mail, addressed as follows:

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